



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: United Instrument Corporation

File: B-231831

Date: September 19, 1988

DIGEST

1. Protest alleging that revision to specification in solicitation is unduly restrictive of competition is denied where the contracting agency shows that revision is likely to increase rather than restrict competition and protester has presented no evidence showing that the specification is unreasonable.

2. Protest that the eventual contractor will not supply acceptable items notwithstanding the contractual obligation to do so involves a matter of contract administration, which is the procuring activity's responsibility and is not reviewed under the Bid Protest Regulations.

DECISION

United Instrument Corporation protests the use of military specification MIL-F-42019 and revised drawing No. 20230 in request for proposals (RFP) No. DLA120-88-R-0970, issued by the Defense Personnel Support Center (DPSC) for the procurement of towel forceps. United contends that the specification and drawing, which resulted from an allegedly unnecessary revision of federal specification GG-F-620, unduly limit the sources of supply.

We deny the protest.

United contends that no presently manufactured forceps can meet the revised specification and drawing. As proof of its contention, United notes that it requested DPSC to supply forceps from its stocks so that it could ascertain whether any met the revised specification. According to United, DPSC stated that the forceps it had in stock did not meet the revised specification and drawing since they had been obtained under contracts awarded on the basis of waivers or exceptions to the specifications governing each award. United further contends that while suppliers can

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make changes to their forceps so as to bring them into compliance with the revised specification and drawing, they will not do so because the cost of the changes will exceed the market price they can obtain for the forceps. United states that testing the forceps the agency will eventually procure under this RFP will show them to be noncompliant with the revised specification and drawing.

The contracting agency states that, contrary to United's assertions, a comparison of the revised specification and drawing with the prior federal specification shows that the revisions relax the requirements of the specification and drawing and, accordingly, will increase rather than restrict competition. Only three changes affecting competition resulted from the revisions: the number of acceptable types of stainless steel used to make the forceps as increased; the acceptable types of finishes to the forceps were increased; and the dimensions for acceptable forceps were enlarged. Thus, the agency states, any forceps that would comply with the unrevised specification will also comply with the revised specification and drawing, and suppliers whose forceps could not meet the former may now be able to offer forceps which comply with the latter.

Where a solicitation is challenged as unduly restrictive of competition, the burden initially is on the contracting agency to establish prima facie support for its contention that the restriction is needed to meet its minimum needs. Once the agency establishes this support, the burden shifts to the protester to show that the requirement is unreasonable. Gates Construction Corp., B-229573, Dec. 14, 1987, 87-2 CPD ¶ 588. Here, United has failed to respond to the contracting agency's assertion that the revisions to the specification actually relax the prior requirements and therefore are likely to increase rather than restrict competition. In fact, United has presented no evidence other than a bare assertion to show that DPSC's use of the revised specification and drawing was unreasonable. Accordingly, we see no basis to conclude that the revisions are unreasonable. W.A. Whitney Corp., B-227082, July 7, 1987, 87-2 CPD ¶ 20.

United also contends that the forceps that eventually will be procured under this RFP, if an award is made under the revised specification and drawing, will be noncompliant. However, whether the items a contractor delivers actually comply with the specifications in the solicitation is a matter of contract administration, which is the responsibility of the procuring activity, and is not

reviewed by our Office under the Bid Protest Regulations.
Container Products Corp., 64 Comp. Gen. 641 (1985), 85-1 CPD
¶ 727.

Finally, United requests that we reconsider various of its protests decided by our Office in prior years. Requests for reconsideration must be filed not later than 10 working days after the basis for reconsideration is known or should have been known, whichever is earlier. Bid Protest Regulations, 4 C.F.R. § 21.12(b) (1988). Accordingly, United's request is clearly untimely.

The protest is denied.

for *Seymour Spos*
James F. Hinchman
General Counsel